

Department of the Army, DoD

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(b) The counselor should advise all aggrieved persons orally and in writing of the following:

(1) The discrimination complaint procedures.

(2) The criteria for the acceptance of class complaints.

(3) The aggrieved person's right to anonymity during the precomplaint process unless disclosure is authorized by the aggrieved person or a formal complaint is filed.

(4) The aggrieved person's right to anonymity during the precomplaint process unless disclosure is authorized by the aggrieved person or a formal complaint is filed.

(c) EEO counselor duties. The EEO counselor will—

(1) Make whatever inquiry is necessary to clarify and define the issues.

(2) Counsel the aggrieved person concerning the issues involved.

(3) Inform the EEO officer and the CPO and other affected officials when corrective action is believed necessary.

(4) Attempt informal resolution through discussions with appropriate officials of the responsible activity. When involved in such discussions, the counselor may seek advice from the servicing legal office.

(5) Keep records of all counseling activities.

(6) Summarize in writing actions and advice given, if any, concerning the issues in the personnel management policy or practice.

(7) Provide sufficient information to the EEO officer so that he or she may notify by electrical transmission the Director of EEOCRA (EEOCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210) within 5 calendar days after the start of precomplaint processing. The information provided must identify precisely all matters raised in the complaint. The right of anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent. If possible, the counselor should reach a mutual agreement with the class agent and his or her representative, if any, as to the specific issues to be considered. This agreement will be in writing and signed by the parties concerned with a copy provided to the complainant and his or

her representative. Information provided to the Director, EEOCRA, will identify precisely all matters raised in the complaint, except that anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent.

(8) Conduct the final interview and terminate counseling with the class agent not later than 30 calendar days after the date on which the allegation was first called to the counselor's attention. This interview will take place whether or not the matter has been resolved. At this final interview, the counselor informs the aggrieved person in writing that—

(i) Counseling is over.

(ii) The class agent has the right to file a formal class complaint of discrimination within the next 15 days.

(iii) The class agent must immediately inform the EEO officer if he or she hires legal or other representation.

(iv) A formal complaint must specifically describe the acts of alleged discrimination.

(v) Only matters discussed with the EEO counselor will be considered in a formal complaint.

(9) Avoid influencing the class agent in any way regarding the filing of a class complaint.

(10) Not reveal the identity of the class agent during the precomplaint processing stage, except when authorized to do so by the class agent.

(11) Prepare and submit a counselor's report to the activity EEO officer within 5 calendar days after the final interview.

§ 588.33 Filing a formal class complaint.

(a) The complaint must be filed in writing by the class agent or a representative and be signed by the class agent.

(b) It must described specifically the policy of practice that gave rise to the complaint and the resultant personnel action or matter that harmed the class agent.

(c) It must be filed no later than 15 calendar days after the class agent has received the notice of final interview from the EEO counselor. For that purpose, the date a complaint is filed is

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the date of the postmark, or, if no postmark, the date the complaint is received by one of the officials listed in d below.

(d) Persons to whom class complaints may be submitted.

(1) A formal class complaint may be filed with any of the following:

(i) The responsible activity EEO officer.

(ii) The director of EEO.

(iii) The Secretary of the Army.

(2) EEO activity publications and the EEO counselor will request the class agent to submit a copy of his or her class complaint to the responsible activity EEO officer in every case. Any of the officials listed above will immediately transmit the complaint by the fastest means possible to the responsible activity EEO officer, indicating the date of receipt of the complaint if it is not postmarked.

(e) At all stages, in the preparation and presentation of a complaint, the class agent will have the right to be represented, accompanied, and advised by a representative of his or her own choosing, provided the choice does not involve a conflict of interest or position. The designation of the representative must be made in writing and made part of the class complaint file.

(f) If the agent is employed by the army, he or she will have a reasonable amount of official time to prepare and present his or her complaint. Employees who represent fellow Army employees in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility, whenever it is not inconsistent with the performance of their duties. (See § 588.71(d).) Army employees who represent non-Army employees in a complaint will be granted, at their request, a reasonable amount of annual leave or leave without pay for this purpose.

(g) Upon receipt of the class complaint, the responsible EEO officer will immediately send a copy of the complaint to EEOCRA (EEOCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210). Receipt of the complaint will be acknowledged, in writing, by EEOCRA. The acknowledgement will contain a docket number assigned to the case which

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will be used in processing the class complaint.

§ 588.34 Designating the Army representative.

The activity labor counselor should be designated by the Activity Commander as the Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

§ 588.35 Criteria for acceptance.

A class complaint or any part of it may be accepted unless it contains one or more of the following:

(a) Refers to a situation over which the Army has no jurisdiction.

(b) Is not based on the class or agent's race, color, religion, sex, age, national origin, physical or mental handicap, and/or reprisal. Complaints of discrimination because of age are accepted only if the class agent and the class were at least 40 years of age when the action occurred.

(c) Consists of allegations identical to those made in a previous class complaint, filed for the same class, that is pending or has been resolved by the Army or other proper authority.

(d) Is untimely.

(1) Class complaints must be brought to the attention of an EEO counselor within 90 calendar days after the incident, effective date of a personnel action, or the date that the aggrieved person became aware, of the discriminatory event or personnel action.

(2) Formal class complaints must be filed within 15 calendar days after the date of the final interview with the EEO counselor.

(e) Lacks specificity and detail.

(f) Was not filed in writing or was not signed by the class agent.

(g) Designates a class that is small enough that a consolidated complaint of the members of the class would be practical. (See § 588.29.)

(h) Alleges no questions of fact common to the class.

(i) Asserts claims of the class agent that are not typical of the claims of the class.

(j) Specifies a class agent or representative that will not protect the